

**Mississippi Tort Claims Board
Thursday, June 20, 2013 – 1:30 P.M.**

**SPECIAL BOARD MEETING
AGENDA**

I. Business Items

- A. Mississippi School Boards Association Property & Casualty Insurance Trust
- B. Christopher Burkhalter
Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries

II. Adjournment

**Next regularly scheduled meeting: Thursday, July 11, 2013 – 1:30 P.M.
Suite 138, Conference Center North, Woolfolk Building, Jackson, MS**



STATE OF MISSISSIPPI
GOVERNOR PHIL BRYANT

MISSISSIPPI TORT CLAIMS BOARD
P. RYAN BECKETT, CHAIRMAN

MIKE CHANEY, Commissioner
Insurance Department
TRUDY FISHER, Executive Director
Department of Environmental Quality
LYNN FITCH, Treasurer
Department of Treasury

JIM HOOD, Attorney General
Office of Attorney General
ALBERT SANTA CRUZ, Commissioner
Department of Public Safety
KEVIN J. UPCHURCH, Executive Director
Department of Finance and Administration

MEMORANDUM

TO: MS Tort Claims Board
FROM: Lea Ann McElroy
DATE: June 20, 2013
RE: Mississippi School Boards Association Property & Casualty Insurance Trust

In April of 2007, the Mississippi Tort Claims Board approved the Mississippi School Boards Association (MSBA) Property & Casualty Insurance Trust (Trust). The Trust offered school districts insurance coverage for property, general liability, auto liability, and auto physical damage. The MSBA worked with Mark Goode and Mike Honeycutt of Willis, and Chris Burkhalter did the actuarial study for the original program on behalf of MSBA. Original projections included 20-30 districts, however, there were only 8 members in the Trust. The Trust was suspended by MSBA "due to the soft market in 2008-2012." There is a balance of \$47,000 in the Trust, with one open claim reserved at \$42,900. A motion to dismiss this claim was filed in June of 2012, and there is an expectation that motion will be granted within the next month.

As school losses have mounted and insurance has become harder to secure, the Mississippi School Boards Association (MSBA) was approached about reinstituting the Trust. MSBA again went to Mark Goode and Mike Honeycutt of Willis for help with the program. Because the Trust was never dissolved, Willis did not believe the new program required Tort Claims Board approval and MSBA moved forward with quotes to the districts. After many contacts regarding the program and the quotes, I did not share that same opinion and bring this issue to you for action.

The Trust – as presented – would provide coverage for property, crime, general liability, educator's legal liability, and auto liability coverage. Although it was approved in 2007, **the Mississippi Tort Claims Board has no authority over any property insurance program.** That duty falls to DFA. In addition, there is no segregation of funds between property and liability within the proposed loss fund.

June 20, 2013

Mississippi School Boards Association Property & Casualty Insurance Trust

A formal independent actuarial rate study does not exist for this new plan. The program is structured with a loss fund set by a reinsurer – Brit. Brit performed an actuarial analysis which they consider proprietary and will not release. While some information has been provided, “the information falls far short of the level of documentation and disclosure that would be required to render an opinion on the actuarial adequacy of the proposed rates.” As a result, our actuary cannot attest that the proposed rates make an adequate provision to cover all expected losses and expenses of the program. (See attached report from Chris Burkhalter.)

Please know that staff has been working for weeks with all parties involved to provide you with the information you need to make an informed decision. We want to work cooperatively with the MSBA, and this meeting was called in an effort to have the program approved before their July 1 deadline. However, we have a fiduciary responsibility to the school districts of this State to ensure this program is good for them beyond the initial premium period. As the Trust is currently presented, and with the lack of adequate information for an actuarial opinion, I do not feel we can do that at this time.

Mark Goode and Mike Honeycutt of Willis are scheduled to be in attendance Thursday and will make a case in support of their program. Mike Waldrop (Executive Director) and Anissa Young (Insurance Program Manager) of the Mississippi School Boards Association will also be in attendance.

MSBA Property & Casualty Trust – Actuarial Considerations

1. Data Integrity

The claims data provided is represented to be from 24 school districts. It is noted that four of these districts (Biloxi, Holly Springs, Jefferson County, and Stone County) have a combined exposure in general liability and auto liability of 9,892 students (16% of the Trust) and 233 vehicles (13% of the Trust). They have a combined expiring annual premium of \$466,590 (14% of the Trust). But the data used to compute the proposed loss funds show zero claims in these districts in all coverages over a five-year period from 2008-2012. While this is theoretically-possible, it is highly-improbable and calls into question the integrity of the data.

Furthermore, the data set shows property losses in 2008 of \$0 for the 24 members, but indicates 4 property claims. In 2010, the data set shows 18 property claims with a total incurred amount of \$991, implying an average claim cost of \$55 for this line of business. This also calls into question the integrity of the data provided.

2. Loss Development & Trend Assumptions

The loss development/trend factors applied to the reported losses are combined and have no documented source. There are significant differences between the factors used in this calculation and what would be implied by industry-wide data. It is possible that these factors are derived from some aggregation of data from Brit, but the source is not disclosed, and these factors cannot be determined to be appropriate.

3. Adjustment for Deductibles

The adjustment to remove losses that would be paid under the deductible provisions of the members' contracts is described, but the rationale of removing ALL automobile physical damage losses and multiplying the property claim counts by HALF of the \$10,000 deductible is neither explained nor justified. And this treatment produces absurd results. For example, for the 2008 year, an adjustment is made for property and auto physical damage deductible-eligible losses that removes \$36,643 from the loss fund calculation (cell C71). But the total trended and developed incurred losses for property and physical damage coverages is only \$16,643 (addition of cells C45 and C48). So the net losses that they have calculated for these coverages for 2008 are actually a NEGATIVE \$20,000. An actuarial treatment of this, as was requested earlier, should address and correct these problems.

MSBA Property & Casualty Trust – Actuarial Considerations

4. Expense Assumptions

Different submissions of the reinsurance program have been forthcoming. The last submission asserts that the aggregate excess limit was raised from \$500,000 to \$1,000,000, yet the cost of this coverage was not changed on the pro-forma financial statements. Additionally, it is unclear whether the “Total Primary Layer Reinsurance Premium” represents both specific excess and aggregate excess insurance, and whether the excess property premium corresponds to the \$250,000 per occurrence limit block shown on the structure diagram. Also, it is unclear whether this is additional coverage or just an additional per-occurrence limit. The reinsurance structure as laid out in the submission from Willis is confusing, and there remains some question as to whether the full cost of the aggregate excess insurance with the higher limit is fully reflected in the pro-forma financial statements.

5. Coverage Limits

It is unclear whether the excess claims shown in the loss data would have represented a net exposure to the Trust above the \$100,000 per claim limit and the (additional?) \$250,000 per-occurrence limit.

6. Overall Profitability

As noted in earlier correspondence, the attachment point for the aggregate excess insurance is 43.4%. After it was noted that the \$500,000 aggregate limit exhausted itself at a loss ratio of 57%, this layer was apparently doubled in size, bringing the top of the layer to a loss ratio of 70%. The assertion is that there is less than a 10% chance of the program achieving a loss ratio of 43.4% or higher. We find this assertion to be suspect, and in need of actuarial support.

CONCLUSION

While the materials submitted by Mr. Honeycutt this week do make a good-faith attempt to quantify the risk proposed to be assumed by the Trust, the information falls far short of the level of documentation and disclosure that would be required to render an opinion on the actuarial adequacy of the proposed rates. While British actuaries working for British companies are not required to follow the U.S. Actuarial Standards of Practice, a formal rate analysis performed by a credentialed actuary would be required to have the level of documentation and disclosure that would allow another actuary to fully review the work. Based on my review of the information provided, I simply **cannot** attest that the proposed rates make an adequate provision to cover all expected losses and expenses of the program.

Lea Ann McElroy

From: Harrell, Lee <lharrell@bakerdonelson.com>
Sent: Thursday, June 20, 2013 11:37 AM
To: Lea Ann McElroy
Cc: ayoung@msbaonline.org
Subject: Mississippi School Boards Association Insurance Program

June 20, 2013

Lea Ann McElroy, Executive Director
Mississippi Torts Claims Board
Sent By Email:

RE: Mississippi School Boards Association Insurance Program

Mrs. McElroy:

As a follow up to our communications regarding the Mississippi School Boards Association ("MSBA") Insurance Program scheduled presentation to the Mississippi Torts Claim Board ("Board") meeting this afternoon my client, MSBA, requests that this matter be continued and taken off today's agenda.

MSBA and its representatives have been working with the Board's consulting actuary, Chris Burkhalter and have provided him with most of the supplemental information he requested. However, there are still two outstanding information requests (Audit of Trust and Actuarial Opinion) that have not been filed. Furthermore, MSBA has not had the opportunity to discuss the latest supplemental filings with Mr. Burkhalter. We believe that it would be beneficial to all parties if these discussions were held to ensure that MSBA understands Mr. Burkhalter's concerns and allow MSBA the opportunity to address any outstanding concerns. MSBA's consultants are working on an actuarial analysis study, but it will not be ready prior to this afternoon's Board meeting. MSBA is also working with their Auditor to provide a compilation since there is no audited financial statement at this time.

Furthermore, this continuance will allow additional time for the Property Insurance Program to be filed and reviewed by the Mississippi Department of Finance and Administration per Miss Code Anno. § 33-7-303.

MSBA will continue to work with its members on this program and other potential options for them for their liability and property insurance needs. As of today approximately eighty school districts have expressed an interest in this new program. Many of these districts are faced with substantial rate increases under their current programs or other new programs. Some districts are being advised that their new rates might be an increase of 80% over their existing coverage. Also, MSBA has been advised that at least three districts have not been able to obtain any additional quotes.

In today's world of tight fiscal budgets you understand the urgency and importance of this program being available otherwise many of these districts will be faced with some very tough financial decisions.

On behalf of MSBA and its members we appreciate the cooperation you and your Office have shown us thru these last few days and look forward to working with you in addressing any outstanding issues regarding this program. In the interim if you have any questions, please let us know.

Dlh

Lee Harrell

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MEMORANDUM

TO: MS Tort Claims Board
FROM: Lea Ann McElroy
DATE: June 20, 2013
RE: Contract Renewal

RECOMMENDATION: Staff recommends approval of contract renewal as noted.

Chris Burkhalter of Bickerstaff Whatley Ryan & Burkhalter – “The Board shall have the option to renew this contract under the same terms herein for a period of one (1) year after the expiration of the term herein.” Renewal will take effect July 1, 2013, and begin the final year of Mr. Burkhalter’s current contract for actuarial services. The contract will expire June 30, 2014. Staff will begin work on securing a new multi-year contract early spring 2014.